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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/021,930	12/13/2001	Kevin Chaite Rotheroe	1830.66026	2200

24978 7590 04/01/2004

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CHICAGO, IL 60606

EXAMINER
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MCDERMOTT, KEVIN

ART UNIT	PAPER NUMBER
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3635

DATE MAILED: 04/01/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/021,930

Applicant(s)

ROTHEROE, KEVIN CHAITE

Examiner

Kevin McDermott

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ML

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE \_\_\_\_\_ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,2,4-21 and 23-45 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,2,4-21 and 23-35 is/are allowed.
- 6) ☒ Claim(s) 36-41 and 44 is/are rejected.
- 7) ☒ Claim(s) 42,43 and 45 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 December 2001 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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## **DETAILED ACTION**

### ***Drawings***

Examiner discovered photographs in the file that are acceptable. Consequently, figures 13-31 are acceptable. Each photograph must be labeled with its own figure number.

### ***Claim Objections***

Claims 1, 4, and 36 are objected to because of the following informalities:

Regarding claim 1, line 8 recites "a outer". It appears that "a" should be corrected to --an--.

Regarding claim 4, line 2 recites "radially". It appears that "radially" should be corrected to --radial--.

Regarding claim 36, line 7 recites "a outer". It appears that "a" should be corrected to --an--.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 36 and 38-40 are rejected under 35 U.S.C. 102(b) as being anticipated by Kasuga.

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Regarding claims 36 and 38-40, Kasuga discloses in figures 2 and 3 and in column 3, lines 29-52, a side frame 2 comprising a linear portion 2a and a bent portion 2b. The linear portion 2a and the bent portion 2b are joined together by fittingly connecting the rear end of the linear portion 2a with the front end of the bent portion 2b.

Linear portion 2a is hexagonal in cross section and has ribs 11 diagonally connecting the inner faces of the linear portion 2a. The center where the ribs 11 intersect is the claimed elongated, axially extending central portion. The ribs 11 radially emanate from the center and extend axially along the central portion. Outer portions are disposed to extend in the axial direction along the length of the central portion and between the ribs 11 in cross section, and axially extend along the length of the central portion. The outer portions define the outer surface of the member.

Bent portion 2b is hexagonal in cross section and has a circular elongated axially extending central portion with ribs radially emanating therefrom. The ribs also extend axially along the portion 2b. Portion 2b has outer portions extending in the axial direction along the length of the central portion and between the ribs 11 in cross section, and defining the outer face of the member.

Additionally, the central portion of portion 2b and the ribs 11 have a curvilinear radial trajectory. The curvilinear radial trajectory also defines a curvilinear trajectory along the length of the central portion 2b.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 37, 41, and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kasuga in view of Eichner.

Kasuga's disclosure is discussed above. As discussed above, the outer portions are disposed to extend in the axial direction along the length of the central portion and between the ribs 11 in cross section, and axially extend along the length of the central portion. The outer portions define the outer surface of the member. However, the outer portions are not arched in cross-section.

Eichner discloses in figures 1 and 2 and in column 1, line 48 to column 2, line 22, a body 10 that is cylindrical or tubular and has therein webs 12 and 14 extended throughout the length of the body. The webs radiate from the longitudinal axis of the body to the wall thereof and serve to lend strength to the body both longitudinally and transversely. The structure may be extruded from aluminum or any other suitable metal or alloy of light-weight and that the finished product may be the result of a single operation.

The intersection of the webs is the claimed elongated, axially extending central portion. The outer surface is the claimed plurality of outer portions extending in the

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axial direction along the length of the central portion and extending between the web portions in cross section.

The portions comprising the outer surface are arched.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the outer portions of Kasuga arched.

One of ordinary skill would have made such a modification so that Kasuga's product/structure could be used in a variety of applications.

### ***Response to Arguments***

Applicant's arguments with respect to claims 36-41 and 45 have been considered but are moot in view of the new ground(s) of rejection.

### ***Allowable Subject Matter***

Claims 1, 2, 4-21, and 23-35 are allowed.

Claims 42, 43, and 45 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Kevin McDermott, whose telephone number is 703-308-8266.

KM 3/23/04

**BRIAN E. GLESSNER**  
**PRIMARY EXAMINER**